

1 A bill to be entitled
 2 An act relating to federal immigration enforcement;
 3 providing a short title; creating ch. 908, F.S.,
 4 relating to federal immigration enforcement; providing
 5 legislative findings and intent; defining terms;
 6 prohibiting sanctuary policies; requiring a state or
 7 local governmental agency to comply with and support
 8 the enforcement of federal immigration law;
 9 prohibiting restrictions by state and local government
 10 entities and officials on the transfer of information
 11 regarding citizenship or immigration status of an
 12 individual, action taken with respect to such
 13 information, or enforcement of federal immigration
 14 law; authorizing a law enforcement agency to transport
 15 an unauthorized alien under certain circumstances;
 16 providing an exception to reporting requirements for
 17 crime victims or witnesses; requiring record keeping
 18 for crime victim and witness cooperation; authorizing
 19 a board of county commissioners adopt an ordinance to
 20 recover costs for complying with an immigration
 21 detainer; requiring state and local government
 22 officials to report violations; providing penalties
 23 for failing to report a violation; providing whistle-
 24 blower protections for government officials who report
 25 violations; providing for injunctive relief and civil
 26 penalties; providing for costs and attorney fees;

27 prohibiting the expenditure of public funds for
 28 violations; requiring the Attorney General to
 29 prescribe the format for submitting complaints;
 30 providing a cause of action for personal injury or
 31 wrongful death attributed to a sanctuary policy;
 32 providing that a trial by jury is a matter of right;
 33 waiving sovereign immunity for such actions; providing
 34 for implementation; providing an effective date.

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 36 Be It Enacted by the Legislature of the State of Florida:

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 38 Section 1. Short title.—This act may be cited as the "Rule
 39 of Law Adherence Act."

40 Section 2. Chapter 908, Florida Statutes, consisting of
 41 sections 908.001-908.0010, is created to read:

42 CHAPTER 908

43 FEDERAL IMMIGRATION ENFORCEMENT

44 908.001 Legislative findings and intent.—The Legislature
 45 finds it is an important state interest that state agencies,
 46 local governments, and their officials owe an affirmative duty
 47 to all citizens and other persons lawfully within the United
 48 States to assist the Federal Government with enforcement of
 49 federal immigration laws within this state, including complying
 50 with federal immigration detainers. The Legislature further
 51 finds it is an important state interest that, in the interest of
 52 public safety and adherence to federal law, this state shall

53 support federal immigration enforcement efforts and ensure that
 54 such efforts are not impeded or thwarted by state or local laws,
 55 policies, practices, procedures, or customs. State agencies,
 56 local governments, and their officials who encourage persons
 57 unlawfully present in the United States to locate within this
 58 state or who shield such persons from personal responsibility
 59 for their unlawful actions breach this duty and should be held
 60 accountable.

61 908.002 Definitions.—As used in this chapter, the term:

62 (1) "Federal immigration agency" means the United States
 63 Department of Homeland Security, or its successor agency, and
 64 any of its divisions, including United States Immigration and
 65 Customs Enforcement, United States Customs and Border
 66 Protection, or any other federal agency charged with the
 67 enforcement of immigration law. The term includes an official or
 68 employee of such agency.

69 (2) "Immigration detainer" means a written request issued
 70 by a federal immigration agency to another law enforcement
 71 agency to provide notice of release and to detain an individual
 72 based on an inquiry into the individual's immigration status or
 73 an alleged violation of a civil immigration law, including
 74 detainers issued pursuant to 8 U.S.C. ss. 1226 and 1357.

75 (3) "Inmate" means an individual in the custody of a law
 76 enforcement agency.

77 (4) "Law enforcement agency" means an agency in this state
 78 charged with enforcement of state, county, municipal, or federal

79 laws or with managing custody of detained persons in the state
 80 and includes municipal police departments, sheriff's offices,
 81 state police departments, campus police departments, and the
 82 Department of Corrections. The term includes an official or
 83 employee of such agency.

84 (5) "Local governmental entity" means any county,
 85 municipality, or other political subdivision of this state. The
 86 term includes a person holding public office or having official
 87 duties as a representative, agent, or employee of such entity.

88 (6) "Sanctuary policy" means a law, policy, practice,
 89 procedure, or custom adopted or permitted by a state entity, law
 90 enforcement agency, or local governmental entity which
 91 contravenes 8 U.S.C. s. 1373(a) or (b), or which knowingly
 92 prohibits or impedes a law enforcement agency from communicating
 93 or cooperating with a federal immigration agency with respect to
 94 federal immigration enforcement, including, but not limited to,
 95 limiting or preventing a state entity, local governmental
 96 entity, or law enforcement agency from:

97 (a) complying with an immigration detainer;

98 (b) providing a federal immigration agency access to an
 99 inmate for interview;

100 (c) initiating an immigration status investigation; or

101 (d) providing a federal immigration agency with the
 102 incarceration status or release date of an inmate.

103 (7) "Sanctuary policymaker" means a state or local elected
 104 official, or an appointed official of a local governmental

105 entity governing body, who has voted for, allowed to be
 106 implemented, or voted against repeal or prohibition of a
 107 sanctuary policy.

108 (8) "State entity" means the state or any office, board,
 109 bureau, commission, department, branch, division, or institution
 110 thereof. The term includes a person holding public office or
 111 having official duties as a representative, agent, or employee
 112 of such entity.

113 908.003 Sanctuary policies prohibited.—A state entity, law
 114 enforcement agency, or local governmental entity may not adopt
 115 or have in effect a sanctuary policy.

116 908.004 Cooperation with federal immigration authorities.—

117 (1) Except as otherwise expressly prohibited by federal
 118 law, a state entity, local governmental entity, or law
 119 enforcement agency may not prohibit or in any way restrict
 120 another state entity, local governmental entity, or law
 121 enforcement agency from taking any of the following actions with
 122 respect to information regarding an individual's immigration
 123 status:

124 (a) Sending such information to or requesting or receiving
 125 such information from a federal immigration agency for purposes
 126 of this chapter.

127 (b) Maintaining such information for purposes of this
 128 chapter.

129 (c) Exchanging such information with a federal immigration
 130 agency or another state entity, local governmental entity, or

131 law enforcement agency for purposes of this chapter.

132 (d) Using such information to determine eligibility for a
 133 public benefit, service, or license pursuant to federal or state
 134 law or an ordinance or regulation of a local governmental
 135 entity.

136 (e) Using such information to verify a claim of residence
 137 or domicile if a determination of residence or domicile is
 138 required under federal or state law, an ordinance or regulation
 139 of any local governmental entity, or under a judicial order
 140 issued pursuant to a civil or criminal proceeding in this state.

141 (f) Using such information to confirm the identity of an
 142 individual who is detained by a law enforcement agency.

143 (2) A state entity, local governmental entity, or law
 144 enforcement agency shall fully comply with and, to the full
 145 extent permitted by law, support the enforcement of federal
 146 immigration law. This subsection is only applicable to an
 147 official, representative, agent, or employee of such entity or
 148 agency when he or she is acting within the scope of his or her
 149 official duties or within the scope of his or her employment.

150 (3) Notwithstanding any other provision of law, if a law
 151 enforcement agency has received verification from a federal
 152 immigration agency that an alien in the law enforcement agency's
 153 custody is unlawfully present in the United States, the law
 154 enforcement agency may securely transport such alien to a
 155 federal facility in this state or to another point of transfer
 156 to federal custody outside the jurisdiction of the law

157 enforcement agency. A law enforcement agency shall obtain
 158 judicial authorization before securely transporting such alien
 159 to a point of transfer outside of this state.

160 (4) This section does not require a state entity, local
 161 governmental entity, or law enforcement agency to provide a
 162 federal immigration agency with information related to a victim
 163 of or a witness to a criminal offense, if such victim or witness
 164 timely and in good faith responds to the entity or agency's
 165 request for information and cooperation in the investigation or
 166 prosecution of such offense.

167 (5) A state entity, local governmental entity, or law
 168 enforcement agency who, pursuant to subsection (4), withholds
 169 information regarding the immigration information of a victim of
 170 or witness to a criminal offense shall document such person's
 171 cooperation in the entity or agency's investigative records
 172 related to the crime and shall retain such records for a period
 173 of no less than 10 years for the purposes of audit,
 174 verification, or inspection by the Auditor General.

175 908.005 Reimbursement of costs for complying with an
 176 immigration detainer.- A board of county commissioners may adopt
 177 an ordinance requiring any individual detained pursuant to a
 178 lawful and valid immigration detainer to reimburse the county
 179 for any expenses incurred in detaining the individual pursuant
 180 to the immigration detainer. An individual detained pursuant to
 181 an immigration detainer is not liable under this section if a
 182 federal immigration agency determines that the immigration

183 detainer was improperly issued.

184 908.006 Duty to report.—

185 (1) An official, representative, agent, or employee of a
 186 state entity, local governmental entity, or law enforcement
 187 agency shall promptly report a known or probable violation of
 188 this chapter to the Attorney General or the state attorney
 189 having jurisdiction over the state entity or local governmental
 190 entity.

191 (2) An official, representative, agent, or employee of a
 192 state entity, local governmental entity, or law enforcement
 193 agency who willfully and knowingly fails to report a known or
 194 probable violation of this chapter may be suspended or removed
 195 from office pursuant to general law and s. 7, Art. IV of the
 196 State Constitution.

197 (3) A state entity, local governmental entity, or law
 198 enforcement agency may not dismiss, discipline, take any adverse
 199 personnel action as defined in s. 112.3187(3), or take any
 200 adverse action described in s. 112.3187(4)(b), against an
 201 official, representative, agent, or employee for complying with
 202 subsection (1).

203 (4) The Whistle-blower's Act, s. 112.3187, shall apply to
 204 any official, representative, agent, or employee of a state
 205 entity, local governmental entity, or law enforcement agency who
 206 is dismissed, disciplined, subject to any adverse personnel
 207 action as defined in s. 112.3187(3) or any adverse action
 208 described in s. 112.3187(4)(b), or denied employment because he

209 or she complied with subsection (1).

210 908.007 Enforcement; penalties.-

211 (1) The Attorney General or a state attorney may institute
 212 proceedings in circuit court to enjoin a state entity, law
 213 enforcement agency, or local governmental entity found to be in
 214 violation of this chapter. The court shall expedite an action
 215 under this section, including setting a hearing at the earliest
 216 practicable date.

217 (2) Upon adjudication by the court or as provided in a
 218 consent decree declaring that a state entity, law enforcement
 219 agency, or local governmental entity has violated this chapter,
 220 the court shall enjoin the unlawful policy or practice and order
 221 that such entity or agency pay a civil penalty to the state of
 222 at least \$1,000 but not more than \$5,000 for each day that the
 223 policy or practice was in effect before the injunction was
 224 granted. The court shall have continuing jurisdiction over the
 225 parties and subject matter and may enforce its orders with
 226 imposition of additional civil penalties as provided for in this
 227 section and contempt proceedings as provided by law.

228 (3) A state entity, local governmental entity, or law
 229 enforcement agency ordered to pay a civil penalty pursuant to
 230 subsection (2) shall remit payment to the Chief Financial
 231 Officer for appropriation as provided in the General
 232 Appropriations Act, or if not provided for in the General
 233 Appropriations Act, such funds shall revert to the General
 234 Revenue Fund.

235 (4) The court may award court costs and reasonable
 236 attorney fees to the prevailing party in an action brought
 237 pursuant to this section.

238 (5) Except as required by applicable law, public funds may
 239 not be used to defend or reimburse any sanctuary policy maker or
 240 any official, representative, agent, or employee of a state
 241 entity, local governmental entity, or law enforcement agency who
 242 knowingly and willfully violates this chapter.

243 908.008 Resident complaint; penalties.—The Attorney
 244 General shall prescribe and provide through the Department of
 245 Legal Affairs' website the format for a person to submit a
 246 complaint alleging a violation of this chapter. This section
 247 does not prohibit the filing of an anonymous complaint or a
 248 complaint not submitted in the prescribed format.

249 908.009 Civil cause of action for personal injury or
 250 wrongful death attributed to a sanctuary policy; trial by jury;
 251 waiver of sovereign immunity.—

252 (1) A person injured by the tortious acts or omissions of
 253 an alien unlawfully present in the United States, or the
 254 personal representative of a person killed by the tortious acts
 255 or omissions of an alien unlawfully present in the United
 256 States, has a cause of action for damages against any state
 257 entity, local governmental entity, or law enforcement agency in
 258 violation of s. 908.003 and s. 908.004, and any sanctuary
 259 policymaker of any such entity or agency, upon proof by the
 260 greater weight of the evidence of:

261 (a) The existence of a sanctuary policy in violation of s.
 262 908.003; and

263 (b) A failure to comply with any provision of s. 908.004
 264 resulting in such alien having access to the person injured or
 265 killed when the tortious acts or omissions occurred.

266 (2) A cause of action brought pursuant to subsection (1)
 267 may not be brought against any individual who holds public
 268 office, or has official duties as a representative, agent, or
 269 employee of a state entity, local governmental entity, or law
 270 enforcement agency, unless such individual is a sanctuary
 271 policymaker.

272 (3) Trial by jury is a matter of right in actions brought
 273 under this section.

274 (4) In accordance with s. 13, Art. X of the State
 275 Constitution, the state, for itself and its political
 276 subdivisions, waives sovereign immunity for actions brought
 277 under this section. In addition, s. 768.28(9) does not apply to
 278 a sanctuary policymaker in any claims brought pursuant to this
 279 section.

280 908.0010 Implementation.—This chapter shall be implemented
 281 to the fullest extent permitted by federal law regulating
 282 immigration and the legislative findings and intent declared in
 283 s. 908.001.

284 Section 3. This act shall take effect July 1, 2016.